



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0537; FRL-9979-18-Region 9]

Air Plan Approval; Douglas, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final rulemaking action to approve, as part of the State Implementation Plan (SIP) for the State of Arizona, the second 10-year maintenance plan for the Douglas maintenance area for the 1971 National Ambient Air Quality Standards (“standards”) for sulfur dioxide (SO₂).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2017-0537. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <https://www.regulations.gov>, or please contact the person identified in the **FOR**

FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, EPA Region IX, (415) 972-3877, graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the words “we,” “us,” or “our” refer to the EPA.

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I. Proposed Action

On February 16, 2018 (83 FR 6996), the EPA proposed to approve the second 10-year maintenance plan for the Douglas, Arizona SO₂ maintenance area. Submitted by the Arizona Department of Environmental Quality on December 14, 2016, the Douglas second 10-year SO₂ maintenance plan (“plan”) demonstrates maintenance of the 1971 SO₂ standards through 2030.

We proposed to approve the plan because we determined that it complied with the relevant Clean Air Act (CAA or “Act”) requirements. Our proposed action contains more information on the plan and our evaluation (83 FR 6996, February 16, 2018).

II. Public Comments and EPA Responses

The EPA’s proposed action provided for a 30-day public comment period. The EPA received eleven anonymous comment letters in response to the proposed action. All eleven comments concerned issues that are outside the scope of our proposed approval of the Douglas second 10-year SO₂ maintenance plan. The issues raised in those comments include, but are not limited to, air quality in China and India, natural gas, mining, electric vehicles, wind farms, and wind turbines.

III. EPA Action

The EPA is taking final rulemaking action to approve the Douglas second 10-year SO₂ maintenance plan under sections 110 and 175A of the CAA. As authorized in section 110(k)(3)

of the Act, the EPA is approving the submitted SIP revision because it fulfills all relevant requirements.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect

until 60 days after it publishes in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the revision to the State of Arizona’s SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 25, 2018.

Deborah Jordan,
Acting Regional Administrator,
EPA Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. In §52.120, table 1 in paragraph (e) is amended by adding the entry “Maintenance Plan Renewal, 1971 Sulfur Dioxide National Ambient Air Quality Standards, Douglas Maintenance Area” after the entry “Modeling and Emissions Inventory Supplement for the Douglas Sulfur Dioxide Nonattainment Area State Implementation and Maintenance Plan and Redesignation Request, dated September 2005” to read as follows:

§52.120 Identification of plan.

* * * * *

(e) * * *

**Table 1—EPA-Approved Non-Regulatory and Quasi-Regulatory Measures
[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹**

Name of SIP provision	Applicable geographic or nonattainment area or title/subject	State submittal date	EPA approval date	Explanation
* * *	* * *	* * *		
Part D Elements and Plans (Other than for the Metropolitan Phoenix or Tucson Areas)				
* * *	* * *	* * *		
Maintenance Plan Renewal, 1971 Sulfur Dioxide National Ambient Air Quality	Douglas Sulfur Dioxide Air Quality Planning Area	December 14, 2016	[insert date of publication], [insert Federal Register citation]	Adopted by the Arizona Department of Environmental Quality on December 14, 2016. Fulfills

Standards, Douglas Maintenance Area				requirements for second 10- year maintenance plan.		
*	*	*	*	*	*	*

¹ Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

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[FR Doc. 2018-12300 Filed: 6/7/2018 8:45 am; Publication Date: 6/8/2018]